IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN
&
THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

WEDNESDAY, THE 28TH FEBRUARY 2007 / 9TH PHALGUNA 1928

WA.No. 781 of 2006()

AGAINST THE JUDGEMENT IN OP.30251/2000 Dated 03/12/2004
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APPELLANTS:
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1. STATE OF KERALA, REPRESENTED BY
THE SECRETARY, GENERAL EDUCATION (P) DEPARTMENT,
THIRUVANANTHAPURAM.

2. DISTRICT EDUCATIONAL OFFICER,
KASARGOD.

3. ASSISTANT EDUCATIONAL OFFICER,
CHERUVATHOOR, P.O.CHERUVATHOOR,
KASARAGOD.

BY GOVERNMENT PELEADER SRI BENNY GERVASIS

RESPONDENTS:
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1. P.V.KUNHIKANNAN, AGED 57,
S/O.PADINHAREVEETTIL, CHANDALATH KUNHAKAM,
AGRICULTURIST, ODAYANCHAL P.O.,
PADIMARUTHU, HOSDURG TALUK, KASARGOD DISTRICT.

2. HEADMASTER, GOVT. U.P.SCHOOL,
PILICODE, P.O.PILICODE, HOSDURG TALUK,
KASARGOD DISTRICT.

ADDL. 1. VALIYAVEETTIL CHANDRAN, AGED 55 YEARS,
S/O.CHATHU, RESIDING AT KUNHIMANGALAM,
WEAVER'S STREET, KUNHIMANGALAM P.O.,
TALIPARAMBU TALUK.

BY ADV. SRI.M.THAMBAN
SRI.K.RAJEEVAN
SRI,DILIP MOHAN
SRI.T.SUDHAMANI

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 28/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.R.RAMAN & ANTONY DOMINIC,JJ.

W.A.NO.781 OF 2006

Dated this the 28th day of February, 2007

JUDGMENT

Raman, J.

This writ appeal is filed against the judgment of the learned Single Judge in O.P.No.30251/2000. The lst respondent herein is the petitioner in the said original petition. He is the brother of late P.V.Karthyayani, who was a Teacher in the Government Service. She died on 16/12/1988. A succession certificate was issued by the competent civil court, produced as Ext.P4 in the original petition. Various benefits which the petitioner (lst respondent) is entitled to are mentioned in the said succession certificate. But in spite of the fact that a succession certificate was issued the amount due and payable therein was not paid and hence the original petition was filed.

2. The learned Single Judge found that in view of the succession certificate issued by a competent

civil court and the various amounts due and payable are included in such succession certificate, the authorities are bound to respect the order passed by the Munsiff's Court. A direction was issued by the learned Single Judge to disburse the benefits and the needful be done within a period of one month, against which the present appeal is preferred.

3. Heard both sides.

4. The learned Government Pleader on instructions submits that as per the provisions of the Kerala Service Rules, pension is payable only to the family as defined in the said rules, which will not take in the lst respondent, who is only the brother of the deceased. But the fact remains that the petitioner was not claiming the family pension as such, but was only claiming the arrears of family pension due and payable to the mother of the deceased. Since the mother died on 2/2/1994, till such date the mother would have been entitled

to the said amount. Since the amount was not paid to the mother, the amount became in arrears which alone was claimed legally by the petitioner in the original petition, based on the succession certificate. We find no reason to interfere with the judgment rendered by the learned Single Judge.

Writ Appeal is accordingly dismissed.

P.R.RAMAN,
Judge.

ANTONY DOMINIC,
Judge.

kcv.